

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 11 of 20

REMARKS/ARGUMENTS

Claims 1, 3, 7, 9, and 13-18 are amended herein. Claims 1-18 remain pending. For at least the reasons stated below, Applicant asserts that all claims are in condition for allowance.

I. Claim Rejections under 35 U.S.C §§ 101 and 112

Claims 13-18 are rejected under 35 U.S.C. § 101 on the alleged basis that the disclosed invention is inoperative and therefore lacks utility. The Examiner asserts that the "logic that...(performs a function)" format of the claims is inoperative.

Claims 13-18 are presently amended to remove the "logic that ... (performs a function)" phrasing. Now the claims are listed using proper *In re Beauregard* format. They recite a computer-readable storage medium containing a set of instructions for a general purpose computer. The set of instructions are claimed using proper "means plus function" language.

Claims 13-18 are also rejected under 35 U.S.C. § 112, first paragraph, on the alleged basis that they do not comply with the enablement requirement as the one skilled in art would not know how to mark or use the invention as the "claims do not specify the make-up of the logic claimed in each of the claims 13-18."

Applicant has amended claims 13-18 so that they are now in proper *In re Beauregard* format. They recite a computer-readable storage medium containing a set of instructions for a general purpose computer. The set of instructions are claimed using proper "means plus function" language. The "logic" that was rejected to is no longer present in the claims.

Applicant asserts that the amended claims are properly enabled. MPEP § 2164.08 indicates that "not everything necessary to practice the invention need be disclosed. In fact, what is well-known is best omitted. All that is necessary is that one skilled in the art be able to practice the claimed invention, given the level of knowledge and skill in the art. Further the scope of enablement must only bear a 'reasonable correlation' to the scope of the claims."

The steps included in claims 13-18 are readily ascertainable by one of ordinary skill in the art. For example, one skilled in the art would understand how to implement claim 13's elements of "means for sending the single network message...", "means for sorting the logically related requests", etc. While each of the components of the claims is readily understood on its

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 12 of 20

own by one of ordinary skill in the art, the unique collection and sequencing of these components is patentable.

It is therefore respectfully asserted that the originally filed application: (a) is based on a disclosure which is enabling; (b) enables one of ordinary skill in the art to make and/or use the invention; and (c) is operative to the degree necessary to enable one of ordinary skill in the art to make and use the invention, and therefore possesses utility. As such, the application fully complies with 35 U.S.C. §§ 101 and 112, and therefore it is respectfully urged that the rejection be reconsidered and withdrawn.

A means plus function limitation is distinctly claimed if the description makes it clear that the means corresponds to well-defined structure of a computer or computer component implemented in either hardware or software and its associated hardware platform. (See MPEP §2106 ("Claims Particularly Pointing Out and Distinctly Claiming the Invention")).

[However,] if the applicant discloses only the functions to be performed and provides no express, implied or inherent disclosure of hardware or a combination of hardware and software that performs the functions, the application has not disclosed any "structure" which corresponds to the claimed means." Here, the specification has express disclosure on pages 680 through 712 as well as figures 177 through 195 describing such a general purpose computer as is claimed, and figures 1 through 3 expressly show a general purpose workstation computer and its system architecture.

Claims 1-18 are rejected under 35 U.S.C. § 112, second paragraph, on the basis that claim 1 (and by extension claims 7 and 13) is unclear what is meant by the term "allowing" in section (b). Claims 1, 7 and 13 have had the term "allowing" removed. Element (b) now reads "indicating whether the dependent batched request depends on the response to the parent batched request...". Therefore, it is requested that the rejection be withdrawn.

Claims 4, 10 and 16 are rejected under 35 U.S.C. § 112, second paragraph, on the basis that it is unclear what is meant by "creating a receiver" and whether the "receiver" is an actual, physical peripheral to a computer or a section of code in the program or something else. Applicant respectfully opposes this rejection.

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 13 of 20

The present invention is related to communications between computers over a network. Receivers are well-known in the art of computer network communication. The specification describes different types of protocols that are used for such communication exchange. For example, Real-time Transport Protocol ("RTP") is referred to on page 164. As one of ordinary skill in the art recognizes, RTP conveys encoding, timing, and sequencing information to allow receivers to properly reconstruct the media stream (page 164). Other protocols that manage the connection between two computers provide "transfer services that ensure the delivery of data from sender to receiver, which support the transferring of messages from a process running on one machine to a process running on another machine" (page 194). One skilled in the art will readily understand that receivers may be a segment of computer code in a program or a stand-alone compiled software module. One skilled in the art knows that such a receiver may be soft-coded as software or built as a peripheral using hardware. Applicant requests that the Examiner withdraw his object to claims 4, 10 and 16 as receivers are well-known in the art of computer network communication.

II. Claim Rejections under 35 U.S.C. § 103

The Examiner claims 1-18 were rejected under 35 U.S.C. § 103 as being unpatentable over Grewal et al., U.S. Patent No. 5,592,672 (hereinafter "*Grewal*"). However, this contradicts the Examiner's own admission that Grewal does not teach each element of claim 1. The Examiner has offered no support for this change in position. Therefore, Applicant requests that the rejections under 35 U.S.C. § 103 be withdrawn.

In the first Office action, the Examiner rejected all 18 claims under § 103 as unpatentable over Grewal (page 4 of Office action), namely:

Claim 1	Examiner's rejection
A method for implementing transaction services patterns, comprising the steps of:	
(a) batching logical requests for reducing network traffic;	Taught by Grewal
(b) allowing a batched request to indicate that it depends on the response to another request;	Taught by Grewal

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 14 of 20

(c) sending a single message to all objects in a logical unit of work;	Taught by Grewal
(d) sorting requests that are being unbatched from a batched message; and	Taught by Grewal
(e) assigning independent copies of business data to concurrent logical units of work for helping prevent the logical units of work from interfering with each other.	Taught by Grewal

Applicant's response argued that Grewal did not fully teach the invention as claimed. The claims were amendment, but such amendments merely reorganized the matter already present in the claim set. The amendments and Applicant's arguments were:

Claim 1 as amended	Applicant's argument
A method for implementing transaction services patterns, comprising the steps of:	
(a) <u>batching logically related requests for reducing network traffic, including the steps of managing a group of business objects necessary for a transaction in a logical unit of work, and grouping the logically related requests received from the logical unit of work into a single network message, wherein the logically related requests include at least a dependent batched request and a parent batched request;</u>	The amended limitations are not new since they are copied from claims 1 through 5. Grewal does not teach "grouping the logically related requests received from the logical unit of work into a single network message, wherein the logically related requests include at least a dependent batched request and a parent batched request"
(b) <u>allowing [[a]] the dependent batched request to indicate that it depends on the response to another the parent batched request, including the steps of receiving a register that the dependent batched request is dependent upon response data from the parent batched request, receiving a response to the parent request, directing data from the response to the parent request to the dependent batched request, and receiving a response to the dependent batched request based on the response to the parent request;</u>	

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 15 of 20

(c) sending <u>[[a]] the single network message to all the group of business objects necessary for the in-a-logical unit of work;</u>	
(d) sorting <u>the logically related requests that are being unbatched from a batched message; and</u>	
(e) <u>assigning independent copies of business data to concurrent logical units of work for helping prevent the logical units of work from interfering with each other providing multiple logical units of work operating concurrently, wherein the logical unit of work is one of the multiple logical units of work, such that each of the multiple logical units of work manipulates at least one of the group of business objects that is common to each of the multiple logical units of work, including the steps of creating a copy of the common business object for each of the logical units of work such that the copy of the common business object for each of the logical units of work is a separate instance of the common business object, and verifying that a change to one instance of the common business object does not change the other copies of the common business object.</u>	<p>The amended limitations are not new since they are copied from claim 6.</p> <p>Grewal does not teach "providing multiple logical units of work operating concurrently"</p>

In the second Office action, the Examiner agreed that Grewal does not teach each element of the independent claims and therefore relied on a second reference to assert the teaching. The Examiner rejected all 18 claims under § 103 as unpatentable over Grewal in view of Nordstrom (page 2 of Office action). The Examiner explicitly stated that "Grewal doesn't, however, teach batching the files into logically related requests so as to send a single network message with a parent batch and a dependent batch or verifying that the various messages do not change in response to a change of another message" (page 2 of Office action).

Claim 1 (after amendments)	Examiner's rejection
A method for implementing transaction services patterns, comprising the steps of:	

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 16 of 20

<p>(a) batching logically related requests for reducing network traffic, including the steps of managing a group of business objects necessary for a transaction in a logical unit of work, and grouping the logically related requests received from the logical unit of work into a single network message, wherein the logically related requests include at least a dependent batched request and a parent batched request;</p>	<p>Taught by Grewal, except the Examiner expressly admits that Grewal does not teach "grouping the logically related requests received from the logical unit of work into a single network message, wherein the logically related requests include at least a dependent batched request and a parent batched request"</p> <p>Since the Examiner asserts that this claim is unpatentable over Grewal in view of Nordstrom, and since the Examiner has admitted that Grewal does not teach a portion of element (a), the Examiner must be relying on Nordstrom for the remaining portion of element (a).</p>
<p>(b) allowing the dependent batched request to indicate that it depends on the response to the parent batched request, including the steps of receiving a register that the dependent batched request is dependent upon response data from the parent batched request, receiving a response to the parent request, directing data from the response to the parent request to the dependent batched request; and receiving a response to the dependent batched request based on the response to the parent request;</p>	<p>Taught by Grewal</p>
<p>(c) sending the single network message to the group of business objects necessary for the logical unit of work;</p>	<p>Taught by Grewal</p>
<p>(d) sorting the logically related requests that are unbatched from a batched message; and</p>	<p>Taught by Grewal</p>
<p>(e) providing multiple logical units of work operating concurrently, wherein the logical unit of work is one of the multiple logical units of work, such that each of the multiple logical units of work manipulates at least one of the group of business objects that is common to each of the multiple logical units of work, including the steps of creating a copy of the common business object for each of the logical units of work such that the copy of the common</p>	<p>Taught by Grewal</p>

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 17 of 20

business object for each of the logical units of work is a separate instance of the common business object, and verifying that a change to one instance of the common business object does not change the other copies of the common business object.	
---	--

In the third (and present) Office action, the Examiner now rejects all 18 claims under § 103 as unpatentable over Grewal on its own (page 2 of Office action). Without offering any support, the Examiner has changed his position and now states Grewal "further discloses batching logically related requests, as discussed in relation to the various Linksets, unbundling them upon receipt" (page 4 of Office action). The Examiner continues to assert that Grewal does not teach each of the limitations of the claims. The Examiner states "Grewal doesn't, however, teach verifying that the various messages do not change in response to a change of another message" (page 4 of Office action).

Claim 1 (after amendments)	Examiner's rejection
A method for implementing transaction services patterns, comprising the steps of:	
(a) batching logically related requests for reducing network traffic, including the steps of managing a group of business objects necessary for a transaction in a logical unit of work, and grouping the logically related requests received from the logical unit of work into a single network message, wherein the logically related requests include at least a dependent batched request and a parent batched request;	Although the Examiner previously stated that Grewal did not teach this, the Examiner now states that Grewal does indeed teach "grouping the logically related requests received from the logical unit of work into a single network message, wherein the logically related requests include at least a dependent batched request and a parent batched request"
(b) allowing the dependent batched request to indicate that it depends on the response to the parent batched request, including the steps of receiving a register that the dependent batched request is dependent upon response data from the parent batched request, receiving a response to the parent request, directing data from the response to the parent request to the dependent batched request; and receiving a	Taught by Grewal

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 18 of 20

response to the dependent batched request based on the response to the parent request;	
(c) sending the single network message to the group of business objects necessary for the logical unit of work;	Taught by Grewal
(d) sorting the logically related requests that are unbatched from a batched message; and	Taught by Grewal
(e) providing multiple logical units of work operating concurrently, wherein the logical unit of work is one of the multiple logical units of work, such that each of the multiple logical units of work manipulates at least one of the group of business objects that is common to each of the multiple logical units of work, including the steps of creating a copy of the common business object for each of the logical units of work such that the copy of the common business object for each of the logical units of work is a separate instance of the common business object, and verifying that a change to one instance of the common business object does not change the other copies of the common business object.	Mostly taught by Grewal, but the Examiner admits that "Grewal doesn't, however, teach verifying that the various messages do not change in response to a change of another message"

By the Examiner's own admission, the cited reference does not teach or suggest all the claim limitations of claims 1-18 as required by MPEP § 2143. Therefore, this rejection is inappropriate and Applicant respectfully requests that Examiner withdraw the 35 U.S.C. § 103 rejection for claims 1-12.

III. The Finality of the Examiner's Office Actions are Disputed

The outstanding Office Action was made "Final" despite two previous responses by Applicants disputing the finality of the Office Action. In the first instance, the amendments to the claims did not add new matter and therefore it appears to the Applicant that a new search was

Serial No 09/387,654

In reply to Office Action mailed September 1, 2004

Page 19 of 20

not necessitated with the amendments. The Examiner offered no discussion regarding the request to reconsider the finality of the action other than by issuing another final action.

In the second instance, Applicant requested reconsideration on the finality of the action because the current final Office action cites the same prior art (Grewal) as the previous Office Action and in fact contradicts the Examiner's own admission that Grewal fails to teach each of the elements of the claims.

If for some reason (not within contemplation at this time) another Official Action is required, it is respectfully requested that it be provided in non-final Office Action since no amendments were made for purposes of overcoming any prior art rejections. It is respectfully noted that any new or different rationale for the rejection would be considered a new ground of rejection, which would necessitate a non-final opportunity to respond. For example, it is urged that any of: (i) changing prior art relied on, (ii) changing from a 102-based to a 103-based rejection, (iii) changing sections referred to in the prior art, or (iv) changing the rationale for the motivation for a modification/combination would necessitate a non-final opportunity to respond.

The Applicant refers the Examiner to the following sections of the MPEP in support of this request:

MPEP 706.07(a): "a second or any subsequent action on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

MPEP 706.07(a): "a second or any subsequent action on the merits ... will not be made final if it includes a rejection, on newly cited art, ... of any claim not amended by applicant ... in spite of the fact that other claims may have been amended to require newly cited art."

IV. Conclusion

Applicant submits that all pending claims are allowable and respectfully requests that a Notice of Allowance be issued in this case. In the event a telephone conversation would

Serial No 09/387,654

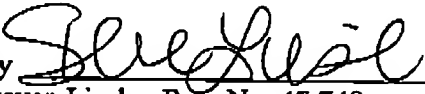
In reply to Office Action mailed September 1, 2004

Page 20 of 20

expedite the prosecution of this application, the Examiner may reach the undersigned at (612) 607-7386.

If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees including fees for any extension of time, to Deposit Account No. 50-1901 (Reference 60021-327501).

Respectfully submitted,

By 
Steven Lieske, Reg. No. 47,749
Customer No. 29,838.

Oppenheimer Wolff & Donnelly, LLP
45 South Seventh St.
Plaza VII, Suite 3300
Minneapolis, MN 55402-1609
Telephone: 612-607-7508
Facsimile: 612-607-7100
E-mail: SLieske@Oppenheimer.com